

VZCZCXRO6295

PP RUEHCD RUEHGD RUEHHO RUEHMC RUEHNG RUEHNL RUEHRD RUEHRS RUEHTM
DE RUEHME #2219/01 1242134
ZNR UUUUU ZZH
P 042134Z MAY 07
FM AMEMBASSY MEXICO
TO RUEHC/SECSTATE WASHDC PRIORITY 6745
INFO RUEHXC/ALL US CONSULATES IN MEXICO COLLECTIVE PRIORITY
RUEHBJ/AMEMBASSY BEIJING PRIORITY 0407
RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY
RUCPDO/DEPT OF COMMERCE WASHDC PRIORITY
RUEAHLA/DEPT OF HOMELAND SECURITY PRIORITY
RUEATRS/DEPT OF TREASURY WASHDC PRIORITY

UNCLAS SECTION 01 OF 03 MEXICO 002219

SIPDIS

SENSITIVE
SIPDIS

STATE FOR WHA/MEX/ROTH AND EB/TPP/MTA/IPC/WALLACE
STATE PASS USTR FOR
EISSENSTAT/ESPINEL/MCCOY/BAE/MELLE/SHIGETOMI
STATE PASS COPYRIGHT OFFICE
USDOC FOR 4320/ITA/MAC/ONAFITA/WORD AND
OIPR/STEPHENS/WILSON/WRIGHT
USDOJ FOR CCIPS/MERRIAM/KOUAME

E.O. 12958: N/A

TAGS: [KIPR](#) [ETRD](#) [PINS](#) [MX](#) [CH](#)

SUBJECT: UPDATE ON MEXICO IPR ISSUES - SOME ENCOURAGING
SIGNS

REF: A. SECSTATE 56579 B. MEXICO 1678

Summary

1. (SBU) Mexican officials responded positively to Post's 301 demarche, reflecting a growing sense of commitment to taking IPR infringement more seriously. In recent weeks, President Calderon reiterated his government's determination to combat piracy, the Mexican Senate passed a bill that would give authorities ex officio authority to pursue pirates and counterfeiters, Mexico joined the U.S. as a third party in our WTO consultations with China regarding its failure to honor its IPR obligations, and the Prosecutor General of the Republic (PGR - equivalent of U.S. Department of Justice) finished staffing its IPR team and is set to launch an IPR website. Separately, the American Chamber of Commerce will inaugurate its IPR Committee later this month. Next week's visit of Commerce Under Secretary Lavin and the upcoming meeting of the SPP working group on IPR provide opportunities for recognizing the advances made to date and pushing for further progress. End summary.

Mexico's response to 301 ranking

2. (SBU) Post delivered the 301 demarche contained in reftel A to Jorge Amigo, the Director General of the Mexican Institute of Industrial Property (IMPI - equivalent of the U.S. Patent and Trademark Office), Felipe Munoz, the Deputy Prosecutor General of the Republic for Federal Crimes, Beatriz Leycegui, the Under Secretary of Economy for International Trade Relations, and Genaro Gutierrez, the Deputy Administrator for Investigations of Mexican Customs. All of our interlocutors readily admitted that Mexico has serious IPR problems, but insisted they plan to deal with them head-on. While not necessarily enamored of the 301 exercise, they expressed satisfaction that Mexico had not been downgraded to the Priority Watch List this year, and reiterated the Mexican government's commitment to cooperating with the U.S., both bilaterally and via the trilateral Security and Prosperity Partnership of North America (SPP). We should note that some Mexican IPR officials told us during the previous Fox Administration that, though they would

prefer to stay off of the Priority Watch List, Mexico's inclusion on the Watch List helped keep top leaders focused on IPR.

Strong support from the top

13. (U) We cannot say if President Calderon pays attention to Mexico's 301 ranking, but he has continued his tough talk on IPR enforcement in public (see reftel B for a speech he gave in March). At a meeting of the Mexican shoe industry on April 26, he once again voiced his government's commitment to cracking down on the illegal economy and "decisively combating counterfeiting and piracy to protect investment and jobs in our country." We believe that the President's strong rhetoric on this theme is helping energize the relevant parts of the federal bureaucracy.

PGR IPR team complete, looking for results in 2007

14. (SBU) In a May 2 meeting with Econoffs and visiting DOJ IPR prosecutor Marie-Flore Kouame, PGR Deputy Prosecutor General Munoz and the newly appointed head of PGR's Specialized Unit for the Investigation of IP Crimes -- Jose Luis Cervantes -- laid out their strategy for cracking down on IPR infringement. Cervantes, who most recently served as Mexico's legal attache in Guatemala City and has lived in both Washington DC and San Antonio, Texas, said he wants to work more closely with PGR's intelligence unit to focus less on street vendors and more on the higher echelons of the criminal organizations that run Mexico's piracy and counterfeiting operations. Cervantes was also very

MEXICO 00002219 002 OF 003

enthusiastic about U.S.-sponsored training opportunities. Munoz, who previously held Cervantes' position and is now his boss, said that the interagency collaboration among PGR, Mexican Customs, IMPI, and local police has resulted in a much better coordinated and effective Mexican IPR enforcement regime, which is operating in an increasingly aggressive manner. Munoz said that his boss, Prosecutor General of the Republic (equivalent of our Attorney General) Eduardo Medina Mora, has made clear that he wants decisive results in IPR enforcement by the end of 2007. Munoz said he plans to deliver, but noted that industry will have to do its part as well, including by making available legitimate products that are affordable to the average Mexican. One tool that he believes will improve coordination with the private sector is the launch later this month of PGR's IP website, which will contain resources and links, news of enforcement successes, a suggestions board, and an anonymous e-mail box for informants. Munoz also predicted that legislative amendments granting ex officio power to pursue pirates and counterfeiters would make it much easier for PGR to obtain convictions and jail time for these sorts of criminals.

Senate passes ex officio amendment

15. (U) On the same day as President Calderon's speech, the full Senate passed amendments to Mexico's penal code and IPR laws that would make the production, storage, transport, import, and sale of pirated goods a serious crime (delito grave) and provide the precise ex officio authority to pursue such crime that PGR seeks. Those convicted could be imprisoned for up to six years and fined up to US 150,000 dollars, though penalties could be reduced if a defendant shares information about where and from whom he obtained the infringing goods in question. Alejandro Gonzalez Alcocer, chair of the Senate Justice Committee that shepherded the bill through to passage, remarked that it passed with an overwhelming majority. He said this reflected the national sense of urgency related to protecting and fostering the country's legitimate economy, and pointed out that reducing prison terms for small-fry street vendors and exempting

consumers from criminal prosecution altogether helped bring onboard the left-leaning parties, who did not want poor people to bear the brunt of stronger enforcement. The Chamber of Deputies had passed a similar bill several years ago. The Senate version contains slight changes that must still be approved by the Chamber when Congress re-convenes in September. According to Gonzalez, who has discussed this bill with Cesar Camacho, chairman of the Chamber's Justice Committee, it should be passed into law easily.

U/S Lavin, SPP, WTO, AmCham

¶6. (SBU) Commerce Under Secretary Lavin will visit Mexico City next week and has a meeting scheduled with Jorge Amigo, Director General of IMPI. This meeting will present an excellent opportunity to reiterate the concerns outlined in our 301 demarche, recognize the early advances achieved by the Calderon Administration, and press for further progress. We predict U/S Lavin will find his interlocutors receptive on all fronts. In fact, Mexico is hosting the upcoming meeting of the SPP working group on intellectual property in Cancun, where we hope to nail down deliverables for the presidential SPP summit to be held in Canada in August. One already accomplished actio item pertains to trilateral cooperation in addressing IPR infringement from countries outside of North America. Both Mexico and Canada formally requested to participate as interested third parties in the WTO dispute the U.S. recently filed against China for failing to honor its IPR commitments under the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). As we continue to strengthen our cooperation with the GOM on protecting IPR, we expect to have an important new ally when the American Chamber of Commerce in Mexico launches its IPR Committee this month. The Mission intends to coordinate closely with AmCham on IPR training, lobbying, and

MEXICO 00002219 003 OF 003

public awareness campaigns.

Comment

¶7. (SBU) While the above developments are positive, we remain at an early stage in the implementation and sustained execution of an effective GOM IPR strategy. The current signs are certainly welcome, but concrete results (e.g., convictions and jail time for pirates and counterfeiters, increased market share for legitimate products) and follow through over the coming months and years will be key to real progress in this very troublesome area. End comment.

Visit Mexico City's Classified Web Site at
<http://www.state.sgov.gov/p/wha/mexicocity> and the North American Partnership Blog at <http://www.intelink.gov/communities/state/nap> /
GARZA